

Indian Employment Credit► **Attach to your tax return.****2005**Attachment
Sequence No. **113**

Name(s) as shown on return

Identifying number

Part I Current Year Credit

| | | | | | | | | | | | | | | |
|---------------------|---|---------------|--|---------------------|--|-----------------|---|---------------------|--|----------------|--|----------|--|--|
| 1 | Total of qualified wages and qualified employee health insurance costs paid or incurred during the tax year | 1 | | | | | | | | | | | | |
| 2 | Calendar year 1993 qualified wages and qualified employee health insurance costs (see instructions). If none, enter -0- | 2 | | | | | | | | | | | | |
| 3 | Incremental increase. Subtract line 2 from line 1 | 3 | | | | | | | | | | | | |
| 4 | Multiply line 3 by 20% (.20) (see instructions) | 4 | | | | | | | | | | | | |
| 5 | Indian employment credits from pass-through entities: <table><tr><td>If you are a—</td><td>Then enter the total of the current year credit(s) from—</td></tr><tr><td>a Shareholder . . .</td><td>Schedule K-1 (Form 1120S), box 13, code F, G, or U . . .</td></tr><tr><td>b Partner . . .</td><td>Schedule K-1 (Form 1065), box 15, code F, G, or U . . .</td></tr><tr><td>c Beneficiary . . .</td><td>Schedule K-1 (Form 1041), box 13, code L . . .</td></tr><tr><td>d Patron . . .</td><td>Written statement from cooperative . . .</td></tr></table> | If you are a— | Then enter the total of the current year credit(s) from— | a Shareholder . . . | Schedule K-1 (Form 1120S), box 13, code F, G, or U . . . | b Partner . . . | Schedule K-1 (Form 1065), box 15, code F, G, or U . . . | c Beneficiary . . . | Schedule K-1 (Form 1041), box 13, code L . . . | d Patron . . . | Written statement from cooperative . . . | 5 | | |
| If you are a— | Then enter the total of the current year credit(s) from— | | | | | | | | | | | | | |
| a Shareholder . . . | Schedule K-1 (Form 1120S), box 13, code F, G, or U . . . | | | | | | | | | | | | | |
| b Partner . . . | Schedule K-1 (Form 1065), box 15, code F, G, or U . . . | | | | | | | | | | | | | |
| c Beneficiary . . . | Schedule K-1 (Form 1041), box 13, code L . . . | | | | | | | | | | | | | |
| d Patron . . . | Written statement from cooperative . . . | | | | | | | | | | | | | |
| 6 | Current year credit. Add lines 4 and 5. (S corporations, partnerships, estates, trusts, and cooperatives, see instructions.) | 6 | | | | | | | | | | | | |

Part II Allowable Credit (See **Who must file Form 3800** to find out if you complete Part II or file Form 3800.)

| | | | | |
|------------|---|------------|--|--|
| 7 | Regular tax before credits: <ul style="list-style-type: none">Individuals. Enter the amount from Form 1040, line 44Corporations. Enter the amount from Form 1120, Schedule J, line 3; Form 1120-A, Part I, line 1; or the applicable line of your returnEstates and trusts. Enter the sum of the amounts from Form 1041, Schedule G, lines 1a and 1b, or the amount from the applicable line of your return | 7 | | |
| 8 | Alternative minimum tax: <ul style="list-style-type: none">Individuals. Enter the amount from Form 6251, line 35Corporations. Enter the amount from Form 4626, line 14Estates and trusts. Enter the amount from Form 1041, Schedule I, line 56 | 8 | | |
| 9 | Add lines 7 and 8 | 9 | | |
| 10a | Foreign tax credit | 10a | | |
| b | Credits from Form 1040, lines 48 through 54 | 10b | | |
| c | Possessions tax credit (Form 5735, line 17 or 27) | 10c | | |
| d | Nonconventional source fuel credit (Form 8907, line 23) | 10d | | |
| e | Other specified credits (see instructions) | 10e | | |
| f | Add lines 10a through 10e | 10f | | |
| 11 | Net income tax. Subtract line 10f from line 9. If zero, skip lines 12 through 15 and enter -0- on line 16 | 11 | | |
| 12 | Net regular tax. Subtract line 10f from line 7. If zero or less, enter -0- | 12 | | |
| 13 | Enter 25% (.25) of the excess, if any, of line 12 over \$25,000 (see instructions) | 13 | | |
| 14 | Tentative minimum tax (see instructions): <ul style="list-style-type: none">Individuals. Enter the amount from Form 6251, line 33Corporations. Enter the amount from Form 4626, line 12Estates and trusts. Enter the amount from Form 1041, Schedule I, line 54 | 14 | | |
| 15 | Enter the greater of line 13 or line 14 | 15 | | |
| 16 | Subtract line 15 from line 11. If zero or less, enter -0- | 16 | | |
| 17 | Credit allowed for the current year. Enter the smaller of line 6 or line 16 here and on Form 1040, line 55; Form 1120, Schedule J, line 6d; Form 1120-A, Part I, line 2; Form 1041, Schedule G, line 2c; or the applicable line of your return. If line 16 is smaller than line 6, see instructions | 17 | | |

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

Employers of American Indians who are qualified employees use Form 8845 to claim the Indian employment credit.

Definitions

Qualified wages means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee (see below). It does not include wages attributable to services rendered during the 1-year period beginning with the day the employee starts work for the employer if any portion of such wages is used in figuring the work opportunity credit on Form 5884. Wages has the same meaning given in section 51.

Qualified employee health insurance costs means any amount paid or incurred by an employer for health insurance coverage for an employee while the employee is a qualified employee. Do not include amounts paid or incurred for health insurance under a salary reduction arrangement.

Qualified employee means, for any tax period, any employee who meets all three of the following tests.

1. The employee is an enrolled member, or the spouse of an enrolled member, of an Indian tribe. Each tribe determines who qualifies for enrollment and what documentation, if any, is issued as proof of enrollment status. Examples of appropriate documentation will vary from one tribe to another and may include a tribal membership card, Certified Degree of Indian Blood (CDIB) card, or letter from the tribe or tribal enrollment office. Employers should retain a copy of the proof of enrollment status provided by the employee.
2. Substantially all the services performed by the employee for the employer are performed within an Indian reservation (defined below).
3. The employee's principal residence while performing such services is on or near the reservation where the services are performed.

However, the employee shall be treated as a qualified employee for any tax year only if more than 50% of the wages paid or incurred by the employer to the employee during the tax year are for services performed in the employer's trade or business. Each member of a controlled group must meet this requirement independently. Also, see the instructions for lines 1 and 2.

The following are not qualified employees.

- Any individual who bears any of the relationships described in sections 152(d)(2)(A) through 152(d)(2)(G) to, or is a dependent described in section 152(d)(2)(H) of, the employer.
- If the employer is a corporation, any individual who bears any of the relationships described in sections 152(d)(2)(A) through 152(d)(2)(G) to, or is a dependent described in section 152(d)(2)(H) of, an individual who owns (or is considered to own under section 267(c)) more than 50% in value of the outstanding stock of the corporation.
- If the employer is an estate or trust, any individual who is a grantor, beneficiary, or fiduciary of the estate or trust (or a dependent, as described in section 152(d)(2)(H), of that individual), or any individual who is a relative, as described in sections 152(d)(2)(A) through 152(d)(2)(G), of the grantor, beneficiary, or fiduciary of the estate or trust.
- If the employer is other than a corporation, estate, or trust, any individual who owns directly or indirectly more than 50% of the capital and profits interest, including constructive ownership, in the entity.

- Any person who owns (or is considered to own under section 318) more than 5% of the outstanding or voting stock of the employer or, if not a corporate employer, more than 5% of the capital or profits interest in the employer.
- Any individual who performs services involving the conduct of Class I, II, or III gaming, as defined in section 4 of the Indian Gaming Regulatory Act, and any individual performing any services in a building housing such gaming activity.

Indian tribe means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional or village corporation, as defined in, or established under, the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. See the Federal Register dated July 12, 2002 (67 FR 46328), for the most recent listing of federally recognized Indian tribes.

Indian reservation means a reservation as defined in section 3(d) of the Indian Financing Act of 1974 or section 4(10) of the Indian Child Welfare Act of 1978.

Early Termination of Employee

Generally, if the employer terminates a qualified employee less than 1 year after the date of initial employment, the following rules apply.

- No wages or qualified employee health insurance costs may be taken into account for the tax year the employment is terminated.
- Any credits allowed for prior tax years by reason of wages paid or incurred to that employee must be recaptured. Include the recapture amount on the line for recapture taxes on your income tax return. Also, any carryback or carryover of the credit must be adjusted.

These rules do not apply if:

- The employee voluntarily quits,
- The employee is terminated because of misconduct, or
- The employee becomes disabled. However, if the disability ends during the first year of employment, the employer must offer reemployment to that employee.

An employee is not treated as terminated if the corporate employer is acquired by another corporation covered under the rules in section 381(a) and the employee continues to be employed by the acquiring corporation. Nor is a mere change in the form of conducting the trade or business treated as a termination if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

Specific Instructions

Part I

Current Year Credit

Figure the credit for your trade or business on lines 1 through 4. Skip lines 1 through 4 if you are only claiming a credit that was allocated to you from a pass-through entity. The following rules apply for lines 1 and 2.

- The total amount of qualified wages and qualified employee health insurance costs for each qualified employee for any tax year is limited to \$20,000.
- Members of a controlled group of corporations and businesses under common control are treated as a single employer in determining the credit.
- For a short tax year, multiply the wages limit by the number of days in the short tax year and divide the result by 365.

Line 1

Enter the total qualified wages and qualified employee health insurance costs paid or incurred for qualified employees during the tax years. An employee is not a qualified employee if the total amount of wages paid or incurred by the employer to the employee during the tax year (whether or not for services within an Indian reservation) exceeds \$35,000.

Line 2

Enter the total qualified wages and qualified employee health insurance costs paid or incurred by the employer (or predecessor) for qualified employees during calendar year 1993 (as if section 45A had been in effect during 1993). If none, enter zero. For this purpose, an employee is not a qualified employee if the total amount of wages paid or incurred by the employer to the employee during calendar year 1993 (whether or not for services within an Indian reservation) exceeds \$30,000.

Line 4

Generally, you must reduce the deductions on your return for salaries and wages and health insurance costs by the credit on line 4, even if you cannot take the full credit this year because of the tax liability limit. If you capitalized any costs on which you figured the credit, reduce the amount capitalized by the credit attributable to these costs.

Line 6

If you have a credit from a passive activity, stop here and go to Form 3800.

S corporations and partnerships. Allocate the line 6 credit among the shareholders or partners. Show the credit for each shareholder or partner on Schedule K-1. Electing large partnerships include this credit in "general credits."

Estates and trusts. Allocate the line 6 credit between the estate or trust and the beneficiaries in proportion to the income allocable to each. On the dotted line to the left of the amount on line 6, the estate or trust should enter its part of the total Indian employment credit. Label it "1041 Portion" and use this amount in Part II (or on Form 3800, if required) to figure the credit to claim on Form 1041.

Cooperatives. A cooperative described in section 1381(a) takes the Indian employment credit to the extent it has tax liability. Any excess is shared among its patrons, but any credit recapture applies as if the cooperative had claimed the entire credit.

Part II**Allowable Credit**

The credit allowed for the current year may be limited based on your tax liability. Use Part II to figure the allowable credit unless you must file Form 3800, General Business Credit.

Who must file Form 3800. You must file Form 3800 if you have:

- An Indian employment credit from a passive activity,
- More than one credit included in the general business credit (other than a credit from Form 8844, Form 6478, or Section B of Form 8835), or
- A carryback or carryforward of any of those credits.

See the instructions for Form 3800 to find out which credits are included in the general business credits.

Line 10e

Include on line 10e any amounts claimed on:

- Form 8834, Qualified Electric Vehicle Credit, line 20;
- Form 8910, Alternative Motor Vehicle Credit, line 18; or
- Form 8911, Alternative Fuel Vehicle Refueling Property Credit, line 19.

Line 13

See section 38(c)(5) for special rules that apply to married couples filing separate returns, controlled corporate groups, regulated investment companies, real estate investment trusts, and estates and trusts.

Line 14

Although you may not owe alternative minimum tax (AMT), you generally must still compute the tentative minimum tax (TMT) to figure your credit. For a small corporation exempt from the AMT under section 55(e), enter zero. Otherwise, complete and attach the applicable AMT form or schedule and enter the TMT on line 14.

Line 17

If you cannot use all of the credit because of the tax liability limit (line 16 is smaller than line 6), carry the unused credit back 1 year and then forward up to 20 years. See the instructions for Form 3800 for details.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping 5 hr., 44 min.

Learning about the law or the form 1 hr., 35 min.

Preparing and sending the form to the IRS 1 hr., 45 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.

